IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No. 232 of 2000
WITH
COMPANY PETITION No. 206 of 2000
COMPANY PETITION No. 207 of 2000

For Approval and Signature:

THE HON'BLE MR.JUSTICE K.A.PUJ

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ENSAVE BOILER ENGINEERS LTD. - Petitioner(s)
Versus
ASHIMA SILK MILLS (I) PVT. LTD. - Respondent(s)

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Appearance :
MR SN SOPARKAR, SENIOR ADVOCATE WITH MR RA MISHRA for Petitioner No(s).: 1.
NOTICE SERVED BY DS for Respondent No(s).: 1.

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CORAM :THE HON'BLE MR.JUSTICE K.A.PUJ

Date : 22/06/2005

COMMON ORAL JUDGMENT

1. All these three Company Petitions are filed by the same petitioner against the three different Companies and hence, all these three petitions are being disposed of by this common order.

2. In Company Petition No. 232 of 2000, the petitioner has claimed an amount of Rs.6,61,440/- from the respondent Company, namely, Ashima Silk Mills (I) Pvt. Ltd. and despite the issuance of statutory notice, the amount has not been paid by the respondent Company. Despite service of notice by this Court, nobody appears on behalf of the respondent Company.

3. In Company Petition No. 206 of 2000, the petitioner has claimed an amount of Rs.6,61,440/- from the respondent Company, namely, M/s. Raj Hans Fashions (I) Pvt. Ltd. and despite the issuance of

statutory notice, the amount has not been paid by the respondent Company. Hence, the present petition was filed. M/s. Thakkar Associates have filed appearance on behalf of the respondent Company.

4. In Company Petition No. 207 of 2000, the petitioner has claimed an amount of Rs.6,61,440/- from the respondent Company, namely, M/s. Raj Hans Silk Mills Pvt. Ltd. and despite the issuance of statutory notice, the amount has not been paid by the respondent Company. Hence, the present petition was filed. M/s. Thakkar Associates have filed appearance on behalf of the respondent Company.

5. On 24.04.2003, this Court has passed an order in all these three petitions observing that Mr. Navin K. Pahwa, learned advocate who appeared for the respondent Company in Company Petition Nos. 206 & 207 of 2000, though sought time to file reply two

years back, that is, on 14.03.2001, has not filed any affidavit in reply so far. Hence, all these three petitions were admitted. However, the publication of advertisement was deferred with a view to give an additional opportunity to the respondent Company.

6. These petitions were thereafter not listed for quite sometime. On 01.09.2004, the Court has passed an order in all the three petitions observing that ever since the last order dated 24.04.2003, neither any reply was filed by the respondent Companies nor any attempt was made to sort out the disputes between the parties. The Court, therefore, was of the view that the claim made by the petitioners in each of these three petitions was not disputed by the respondent Companies. The petitions were, therefore, ordered to be advertised and the Court has directed the petitioners in each of these three petitions to publish the advertisement of admission and final

hearing of the petitions in two Newspapers, namely, 'Indian Express' – English Daily – Baroda edition and 'Gujarat Mitra' – Gujarati Daily – Surat edition mentioning the date of final hearing on 04.10.2004. The publication in the Official Gazette was dispensed with in each of these three petitions.

7. It appears that the advertisement as ordered by this Court was not published by the petitioners in respect of any of these three petitions. The Court, thereafter passed another order on 24.02.2005 and after considering the request made by Mr. S.N. Soparkar, learned Senior advocate appearing with Mr. R.A. Mishra for the petitioners, has extended the date of final hearing so that necessary compliance could be made of the order dated 01.09.2004. The Court has accordingly extended the date of final hearing to 11.04.2005 and the petitioner in each of these three petitions was directed to publish the

advertisement in two Newspapers, namely, 'Indian Express' – English Daily – Baroda edition and 'Gujarat Mitra' – Gujarati Daily – Surat edition mentioning the date of final hearing on 11.04.2005. The publication in the Official Gazette was dispensed with in each of these three petitions.

8. After 11.04.2005, all these three petitions were listed for hearing on 27.04.2005, 05.05.2005, 15.06.2005 and today i.e. 22.06.2005. Despite several opportunities were granted, the petitioner could not comply with the order of this Court with regard to publication of advertisement in respect of any of these three petitions.

9. Mr. S.N. Soparkar, learned Senior advocate appearing with Mr. R.A. Mishra for the petitioners, has submitted that he has not received any plausible explanation from the petitioners as to why the advertisement has not

been published. Since the Court has extended the time on earlier two occasions, the request of Mr. Soparkar for further extension of time is not accepted. The Court is of the view that the petitioners are not interested in proceeding further with regard to any of these three petitions and since the publication of advertisement in the Newspapers is a statutory requirement, non-compliance of which will result into the dismissal of the petitions for want of prosecution.

10. Accordingly, all these petitions are dismissed for want of prosecution without any order as to costs. Office is directed to place copy of this order in each connected petitions.

[K.A. PUJ, J.]

Savariya